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April 13, 2006

TTAB

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Our File Number: 04VL-118554

Honorable Commissioner of Trademarks
United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Notice of Opposition; Serial No. 78/649,789; Trademark: RITA PUNCH

To Whom It May Concern:

Enclosed for filing please find an original Notice of Opposition. Should a fee be required, please charge it to deposit account number 501395.

Sincerely,



Mironda Lewis
Secretary to
Brian Anderson

W02-SF:5BA1\61491570.1
Encl.

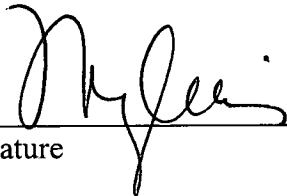


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U.S. Patent & TMO/TM Mail Rcpt Dt. #34

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Signature

Mironda Lewis

Name

April 13, 2006

Date

Notice of Opposition (4 pgs);
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Sociedad Anónima Viña Santa Rita,

Opposer,

v.

Angela Barbato,

Applicant.

Opposition No.: _____

Serial No.: 78/649,789

Filed: June 13, 2005

Published: March 14, 2006

Trademark: **RITA PUNCH**

NOTICE OF OPPOSITION

Sociedad Anónima Viña Santa Rita ("Opposer"), a Chilean corporation with offices located at Apoquindo 3721, 13th Floor, Las Condes, Santiago, Chile, believes that it will be damaged by the registration of the proposed trademark shown in Application Serial No. 78/649,789 for the goods identified in International Class 32 and hereby opposes said application for the goods identified in International Class 32 under Section 13 of the United States Trademark Act, 15 U.S.C. § 1063.

Angela Barbato ("Applicant"), an individual with an address of 2971 NE 16th Avenue, Oakland Park, Florida 33334-5211, United States, filed Application Serial No. 78/649,789 for the proposed RITA PUNCH mark on June 13, 2005 ("Application"). The Application was published for opposition on March 14, 2006. The identification of goods for the Application reads as follows: "non-alcoholic cocktail mix" in International Class 32.

Opposer's grounds for opposition are as follows:

1. Opposer manufactures, advertises and sells wines under the SANTA RITA mark in international and U.S. domestic interstate commerce. Opposer has continually offered and sold wines under the SANTA RITA mark since at least as early as October 1883.

2. Opposer is the owner of record of, *inter alia*, Registration No. 2275710, registration issued on September 7, 1999, for the SANTA RITA mark for use in connection with "wines of all kinds" in International Class 33; Opposer is the owner of record of, *inter alia*, Registration No. 2782373, registration issued on November 11, 2003, for the SANTA RITA TRIPLE C mark for use in connection with "wines" in International Class 33; Opposer is the owner of record of, *inter alia*, Registration No. 2644007, registration issued on October 29, 2002, for the SANTA RITA FLORESTA mark for use in connection with "wines" in International Class 33; Opposer is the owner of record of, *inter alia*, Registration No. 2776392, registration issued on October 21, 2003, for the SANTA RITA MEDALLA REAL mark for use in connection with "wines" in International Class 33 (collectively, the "SANTA RITA Marks").

3. Opposer has invested millions of dollars in advertising and promotion of its wines, including those bearing the SANTA RITA Marks. Opposer uses the SANTA RITA Marks on its wines throughout the world, including in the U.S. On information and belief, the SANTA RITA Marks have become well-known and recognized as Opposer's marks among consumers in the relevant industry.

4. Applicant's proposed RITA PUNCH mark is confusingly similar to Opposer's previously used and registered SANTA RITA Marks. Coexistence of these identical marks is likely to cause confusion, to cause mistake, and to deceive the public, injuring Opposer and the consuming public.

5. Applicant's use of the proposed RITA PUNCH mark in connection with the goods identified in International Classes 32— "non-alcoholic cocktail mix"—is likely to cause confusion, to cause mistake, and to deceive the public, injuring Opposer and the consuming public. These goods (i.e., non-alcoholic cocktail mixes which are generally mixed with alcohol to make alcoholic beverages) are very similar to "wines" in International Class 33 (i.e., alcoholic beverages).

6. Opposer's SANTA RITA Marks are of sufficient fame and have a sufficient reputation among consumers such that, if and when Applicant's proposed RITA PUNCH mark is used in connection with the goods identified in International Class 32, consumers will presume that Applicant's use is associated with Opposer.

7. On information and belief, Applicant's use of the proposed RITA PUNCH mark will disparage Opposer, falsely suggest an association with Opposer, and/or bring Opposer into disrepute.

8. The registration of Applicant's proposed RITA PUNCH mark on the Principal Register would be inconsistent with Opposer's rights under its preexisting registrations and common law, and would thus damage Opposer.

THEREFORE, Opposer respectfully requests that Application Serial No. 78/649,789 for the goods in International Class 32 be rejected, that no registration be issued in connection with this Application for the goods in International Class 32 and that the Board rule in favor of Opposer in this Opposition Proceeding.

DATED: April 13, 2006

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By



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